

March 30, 2020

Electronic Delivery

Dear Judges and Attorneys:

As our state responds to the growing COVID-19 crisis, I ask for your assistance in relieving the pressure in our congregate care populations across the state, mainly in secure juvenile detention centers. I have attached the text and links to two recent national articles on the importance of reducing the population in juvenile detention centers.

In my March 18, 2020 letter to judges, I identified several next tasks and asked for your assistance in achieving them. Those tasks included:

- Evaluate all youth currently in a detention center and determine if they are appropriate for community release. OJA will work with judges in authorizing releases.
- Monitor all new detention admits to determine if detention is absolutely necessary for that youth. I ask that courts not use detention for parole violations, drug court violations, misdemeanor charges, status offenders, etc., at this time.

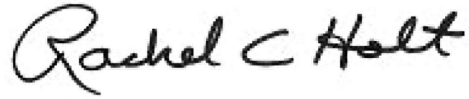
As the spread of COVID-19 increases daily throughout Oklahoma, I again ask you to help OJA be proactive by releasing youth that are appropriate to be released from detention to the community. The threat of COVID-19 penetrating a detention center or other placement is very real. We must act together to minimize youth being at an increased risk for infection while in congregate care.

I also ask that you minimize new detention admits to youth who are alleged to have committed serious, violent crimes and are an imminent threat to themselves and the community. As you know, all detention admits are done through a judge's order, I ask that you communicate with your district attorneys, OJA and juvenile bureau intake, and law enforcement about the importance of minimizing new detention admits.

Again, I will assure everyone that all of these measures are not a "get out of jail free" card. They are being done in thoughtful consideration and balance of accountability and community protection while in the face of a pandemic. As this continues, we anticipate severe staffing pressures in all of our placements that may necessitate shutdowns. We are hoping that these proactive steps will help ease the pressure on the staff and youth that live and work in congregate populations. As you will read in the articles attached, these same measures are being employed by the majority of states across the country in response to this national emergency.

Thank you all for your partnership in these difficult times. If you have any questions or concerns, please do not hesitate to email me or call me on my cell phone, (405) 397-2681.

Sincerely,

A handwritten signature in black ink that reads "Rachel C Holt". The signature is written in a cursive, flowing style.

Rachel C. Holt
Interim Executive Director

Let's keep youth justice from making the coronavirus worse

Releasing low-risk, incarcerated youth is not just smart for curbing the pandemic, it will improve the system.

Marc Schindler and Vincent Schiraldi

Opinion contributors

Published 7:20 p.m. ET March 27, 2020 | Updated 7:33 p.m. ET March 27, 2020

Life is fundamentally changing right now.

Around the U.S. schools are closing to protect children — and their families — from COVID-19. But, at the same time, more than 48,000 youth are detained in the criminal justice system, all potentially at heightened risk for the coronavirus.

To protect them — and help them avoid carrying the virus back to their communities —jurisdictions should immediately examine which youth can be safely managed at home and reduce youth incarceration.

We know. We've run and transformed youth prison and probation systems in two major American cities, New York City and Washington D.C., safely moving kids from incarceration to community programs while ensuring public safety. That's a good idea at any time, but especially during this pandemic.

Last week, we joined correctional administrators from around the country in calling for immediate efforts to reduce the number of incarcerated youth and to make urgent changes to the conditions facing those who remain in locked facilities.

While most young people are at lower risk of catching or dying from the virus, youth in the justice system are generally less healthy than their peers. They have more gaps in Medicaid enrollment and higher rates of asthma, which increases the severity of COVID-19.

Locking youth up tends to worsen mental illnesses they may already be dealing with, dramatically increases the risk of self-harm and is associated with risks lasting into adulthood, including poorer overall general health and increased incidence of suicide.

Detention facilities often exacerbate the risk factors for contracting coronavirus. Youths are frequently forced into close quarters, ventilation may not be ideal, soap is generally not readily available and hand sanitizer is often considered contraband. Medical care is often subpar.

The number of incarcerated youth should be minimized while the risk of coronavirus infection remains high. Thanks to years of reform, this is achievable.

Many jurisdictions, like the ones we have run, no longer operate large youth prisons and the number of incarcerated youths has dropped by 59 percent nationally since its 1997 peak. Youth crime has continued to decline.

Community based resources serve youth and public safety better. Where necessary, states and counties should provide emergency funding to community-based organizations to safely divert even more young people from incarceration. To protect those youth and staff still in correctional facilities, every youth justice system should produce a coronavirus response plan.

Last week, probation and parole officials around the country recommended reducing compliance-focused supervision; allowing check-ins by phone or video; and eliminating incarceration for technical, non-criminal violations like missing appointments.

Supervision of young people on probation has only a small impact on reoffending, reducing it by 1%, whereas offering support to youth decreases new offenses by 10%. In an extensive review of youth probation, the Annie E. Casey Foundation found that such supervision frequently focusses on mere compliance with standardized conditions, lasts too long and is too often applied to low-risk youth for whom supervision may be detrimental. The half-million young people on probation — and their families — shouldn't be compelled, under the threat of incarceration, to sit in waiting rooms with other medically-vulnerable families and youth for such supervision.

Youth incarceration is counterproductive as a public safety tool. The majority of incarcerated youth will be rearrested within one year of their release. A growing body of evidence suggests that incarceration actually worsens youth behavior. It is hardly surprising that separating developing young people from schools, families and other supports to put them in a brutalizing environment would have a negative outcome, even before the coronavirus was a threat.

There are more reasons to re-examine these bad practices. They are morally unacceptable, harming black and brown children at much higher rates than their white peers. They are financially unsustainable, with incarceration being the most expensive and least effective response to youth crime. And they don't make us safer; when we substantially reduced youth incarceration in New York City and Washington, D.C., youth crime went down, not up.

The USA's ineffective response to juvenile crime is putting vulnerable children, their families and communities at greater risk from COVID-19. It is also cruel. If it would break your heart to put your child on a school bus right now, imagine what it would be like to see your child sent to prison where they would be significantly more vulnerable to the virus.

Once the pandemic subsides, schools will resume their old activities. That's a good thing, because we know that education prepares young people for success.

But locked facilities and unsupportive probation practices do not. They make kids sicker, less likely to earn a degree or get married, and more likely to come back into contact with the legal system. When it comes to the youth justice system, it would be better if we never got back to normal.

Marc Schindler is executive director of the Justice Policy Institute and former Interim director of Washington, D.C.'s Department of Youth Rehabilitation Services. Vincent Schiraldi is co-director of the Columbia Justice Lab and former commissioner of New York City Probation. Both are members of Youth Correctional Leaders for Justice a national coalition of youth justice leaders calling for a reduction in youth incarceration and an end to outdated large youth prisons.

[nbcnews.com/news/us-news/coronavirus-juvenile-detention-nightmare-scenario-doctors-advocates-say](https://www.nbcnews.com/news/us-news/coronavirus-juvenile-detention-nightmare-scenario-doctors-advocates-say)

NBC NEWS

Coronavirus in juvenile detention is a 'nightmare scenario,' doctors and advocates say

The coronavirus is already appearing in juvenile detention centers. Experts say it'll get worse unless children are released.

March 27, 2020, 11:51 AM CDT / Updated March 27, 2020, 1:37 PM CDT
By Tyler Kingkade

Earlier this month, a boy at the New Orleans juvenile detention center refused to attend classes. He wouldn't even leave his room.

Christy Sampson-Kelly, an administrator for the [school](#) in the detention center, run by a nonprofit called the Center for Educational Excellence in Alternative Settings, said she went to his room with a social worker to see what was wrong. The boy said he was worried about catching [COVID-19](#), the disease caused by the coronavirus. He thought staying in his room was the safest thing he could do.

Sampson-Kelly said the boy told her, "Miss Christy, I just don't want to die in here."

Many of the 47 children in the New Orleans Juvenile Justice Intervention Center are afraid, Sampson-Kelly said. While some don't want to leave the safety of their rooms, others fear that if there is an outbreak in the facility, they'll be restricted to those rooms, essentially placed in solitary confinement. For many detained youth, their primary caretaker is a grandparent, and they're scared that someone they love will die of the virus before they get out. As of Thursday, [83 people in Louisiana](#) had died because of COVID-19, among the highest death tolls of any state.

One boy at the New Orleans juvenile detention center recently became alarmed when he saw that Sampson-Kelly wasn't wearing a mask like some of the other staff, she said. He worried that if staff members like Sampson-Kelly became ill, the school would stop holding classes. "If you get sick, nobody is coming," the boy told her.

Like many juvenile detention facilities nationwide, the New Orleans center has eliminated in-person family visits. Classes have been temporarily replaced with packets the kids complete on their own. Social workers and religious staff are not able to visit. Orleans Parish Juvenile Court has [closed](#) until April, and so far it hasn't held hearings by videoconferencing, delaying a chance for the children's lawyers to argue that they should be allowed to go home.

"They're worried about being left behind," Sampson-Kelly said. "They're an afterthought. I think in the efforts to slow down the virus and be responsible, we just said, 'Kids, stay home,' but no one thought about our kids."

Kyshun Webster, director of the New Orleans juvenile detention center, said his team is "taking every measure to prevent the introduction or spread of the virus through social distancing, regimented sanitizing throughout the day, and reducing the population of youth and staff."

The coronavirus pandemic has spurred a flurry of activity to release children from juvenile detention centers. Doctors, [former probation and juvenile detention officials](#) and [youth rights advocates](#) say it's the only way to prevent an outbreak in one of the facilities, which could endanger both the children and the staff. Public defenders nationwide are filing motions asking states and counties to release youth who are not safety risks.

While some detention centers are working to let children go home or have pledged not to incarcerate additional minors, release efforts have been bogged down by coronavirus-related court closures and the process of reviewing each case. And time is of the essence, according to physicians, lawyers and other advocates.

Staff at juvenile detention centers in [Connecticut](#), [Georgia](#) and [New York](#) have already tested positive for COVID-19. Citing those reports, the Legal Aid Society [sued](#) the New York City government Wednesday demanding it release 22 teens ages 13 to 17 before they become infected. A Law Department spokesman said that the city will need to review the suit and that "health and safety is a priority of the city."

On Thursday, the Harris County Juvenile Detention Center in Houston [revealed](#) that a teenager in the facility had tested positive for the coronavirus and was in quarantine. The county's probation department said that the facility would be cleaned and that children and staff would be monitored.

"We are on the brink of the nightmare scenario," warned Dr. Kim Cullen, a physician in Denver and one of the authors of an [open letter](#) to governors and state justice officials from a group of concerned doctors.

"If there isn't swift action to move children out of these environments where this virus can spread like wildfire," Cullen said, "we are just providing the kindling."

Experts warn the virus will spread in detention centers

Researchers estimate [16,000 children](#) are held in detention centers nationwide — although the government doesn't monitor how many are locked up each year — and a majority are in the facilities for minor offenses or probation violations or they are awaiting adjudication. Another [4,500 minors](#) are in adult jails and prisons. They're [disproportionately children of color](#), and experts say they're essentially sitting ducks as the coronavirus spreads.

"These kids can't go anywhere, but staff are cycling in and out," said Tim Curry, legal director of the National Juvenile Defender Center, a nonprofit children's advocacy group. "Whatever contact they're having outside is going to come into the facility."

Other closed environments have had outbreaks once the virus was introduced. At a [nursing home near Seattle](#), staff who worked while they were sick fueled the spread of COVID-19, resulting in more than 30 deaths. Over [800 people who traveled](#) on two Princess cruise ships tested positive for COVID-19. If the virus enters a juvenile detention center, it will be difficult to contain, said Vincent Schiraldi, co-director of the Justice Lab at Columbia University and former director of the juvenile corrections in Washington, D.C.

"There's not a lot of great air circulation, and the only way to keep them from congregating is locking them in their cells, which you shouldn't do," Schiraldi said, because isolation has been shown to cause [extreme psychological distress](#). "Once the virus comes in," he added, "your options are very limited."

Most [young people who contract](#) the coronavirus develop mild cases or show no symptoms at all. But COVID-19 is a higher risk for people with compromised immune systems, and children in the juvenile justice system are

[more likely to have](#) underlying [health issues](#). Detention can [exacerbate those problems](#). Public health experts also worry about older staff members getting sick.

Dr. Homer Venters, a physician and epidemiologist who [oversaw efforts](#) to contain the outbreak of the H1N1 virus at New York's Rikers Island jail, said that even if there is physical space to isolate those infected by COVID-19, detention facilities are likely to face staff shortages once employees get sick. And if hospital staff [can't stock enough personal protective equipment](#), detention centers certainly won't. In addition, Venters said, there's a good chance adolescents who feel ill won't report it to detention center staff.

"They're not ready to handle an outbreak," Venters said. "The community has forgotten about them, the Centers for Disease Control and state departments of health, governors' offices — they haven't paid much attention to what goes on in these places. What I fear is we're in for a very, very horrible awakening to just what we've done."

A mixed response to releasing children

Dozens of civil rights groups [in 22 states](#) sent letters urging governors and state officials last week to release incarcerated children and stop adding new ones to prevent COVID-19 outbreaks in detention facilities.

The reaction from states has been mixed. California [issued an order](#) this week to temporarily halt adding children to state-run detention facilities. Nebraska's judicial system [responded](#) that it has no plans to implement a blanket policy on juvenile cases during the pandemic.

"They don't feel like that is necessary yet," said Christine Henningsen, director of Nebraska Youth Advocates, a nonprofit trying to get children released. "I hope it doesn't take a case of mass spread within a detention center or corrections facility to make that happen, because then it's too late."

Globally, [several countries](#) have started releasing adults from prisons to curtail the spread of the coronavirus. But in the United States, the federal government doesn't have the power to order a mass release of people incarcerated in local facilities. The release process for both juveniles and adults varies by state or county, and governors' ability to order people released is limited.

"That just underscores the fact that we don't have one solution or one answer right now," said Marsha Levick, co-founder of the Juvenile Law Center, a public interest law firm

Keir Bradford-Grey, Philadelphia's chief public defender, said her office has asked for any children held on misdemeanors or who have medical conditions to be released to their parents or guardians. But each case has to be approved by the district attorney's office and juvenile probation before it can go before a judge.

'Fighting tooth and nail to get the kids out'

In cities like San Francisco, the effort is simply speeding up what was already in the works. The city's Board of Supervisors [voted in February](#) to close the juvenile hall by the end of 2021, but now that COVID-19 is circulating, public defenders have filed motions to get every one of their clients released.

The San Francisco public defender's office has been inundated with calls from families begging for help getting their children released. According [to a letter](#) that Manohar Raju, the city's chief public defender, sent to the juvenile probation department, one "child who was recently brought to juvenile hall was exhibiting flu-like symptoms and was quarantined in his room for three days," although he ultimately tested negative for COVID-19.

However, the probation department has objected to several releases on the grounds that the plans for how the children would be monitored weren't detailed enough, according to Patricia Lee, managing attorney of the public defender's juvenile unit in San Francisco.

"We are fighting tooth and nail to get the kids out, because it is an untenable situation," Lee said.

Katherine Weinstein Miller, San Francisco's chief juvenile probation officer, said that when possible, they'll release youth home with appropriate supervision. but they "have a responsibility to evaluate whether proposed release plans will be sufficient to support our young people and provide for community safety, and to offer feedback to our justice system partners."

The logistics are changing rapidly thanks to social distancing orders that have caused courthouses to close and staff to work remotely. Samantha Buckingham, who runs a juvenile justice clinic at Loyola Law School in Los Angeles, said her team found out with less than 24 hours' notice that a court was closing for days at a time.

"This is something that is constantly changing, and our defenders have to move as quickly as COVID-19 is," said Sherika Shnider, a staff attorney at the National Juvenile Defender Center, which started collecting and [sharing](#) court motions and affidavits to assist attorneys seeking release of detained youth.

A social distancing challenge

Mark Mertens, administrator of the Division of Youth and Family Services in Milwaukee, said all minors brought to the county's juvenile detention center are being placed in a separate unit for 14 days to ensure they don't have coronavirus symptoms. The facility has space for this because it has 120 beds but only 60 incarcerated youth, Mertens said. The facility has also purchased additional games to keep the children occupied, because their group classes have been replaced with individual homework packets, he said.

Mertens said he's also been working to reduce the detention center's population. He said his staff has met with public defenders to discuss which cases they could present in court to release children from detention.

"Even though we are trying to practice social distancing, it's hard to do," Mertens said. "The fewer kids we have, the more effective we can be to keep them from being contagious or contracting the illness."

Still, anxiety remains high among incarcerated children. In New Orleans, with the juvenile court closed and regular classes on hold in the detention center, one boy in the facility recently told Sampson-Kelly that he feels like he's "standing still."

"These young people are just incredibly isolated and scared," said David Domenici, executive director of the Center for Educational Excellence in Alternative Settings, the nonprofit that operates the New Orleans detention center's school.

This week, the organization [asked for volunteers](#) to send letters to incarcerated youth over the next four weeks to let them know they're not alone. But Domenici believes the real solution is to let the children go home.

"That's the only sound moral and safe position," he said.